

Notice of Allowability

Application No.

09/810,521

Examiner

Delia M. Ramirez

Applicant(s)

KREUTZER ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/21/2004.
2. ☒ The allowed claim(s) is/are 1, 16, 22, 23, 27, 30 and 31.
3. ☒ The drawings filed on 19 March 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/353608.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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DETAILED ACTION

Status of the Application

Claims 1, 16, 22-23, 27, 30-31 are pending.

Cancellation of claims 28 and 32 in a communication filed on 7/21/2004 is acknowledged.

Reasons for Allowance

1. The following is an Examiner's statement of reasons for allowance. Although the prior art discloses L-lysine producing bacteria (see Peters-Wendisch et al., Cremer et al., Araki et al., and Vrljic et al. cited in previous Office Actions), the Examiner has found no teaching or suggestion in the prior art directed to L-lysine producing bacteria wherein the *C. glutamicum* *pyc* gene is overexpressed by increasing its copy number, and the *C. glutamicum* *dapA* gene is overexpressed using promoters comprising SEQ ID NO: 5 or 6. Therefore, claims 1, 16, 22, 23, 27, 30-31 directed to L-lysine producing bacteria wherein (a) the *C. glutamicum* *pyc* gene is overexpressed by increasing its copy number, and the *C. glutamicum* *dapA* gene is overexpressed using promoters comprising SEQ ID NO: 5 or 6, or (b) the *C. glutamicum* *pyc*, *lysE* and *lysC* gene are overexpressed by increasing its copy number, and the *C. glutamicum* *dapA* gene is overexpressed using promoters comprising SEQ ID NO: 5 or 6, are allowable over the prior art of record.

2. Claims 1, 16, 22, 23, 27, 30-31 are allowed.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Delia M. Ramirez whose telephone number is (571) 272-0938. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Ponnathapura Achutamurthy can be reached on (571) 272-0928. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

Delia M. Ramirez, Ph.D.
Patent Examiner
Art Unit 1652

DR
August 11, 2004

Rebecca E. P. Mitty
REBECCA E. MITTY
PRIMARY EXAMINER
~~GROUP 1800~~
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